

Trevino et al.

S/N: 09/683,130

**REMARKS**

Applicant has amended claim 9 to incorporate the subject matter of claims 10 and 12 to place claim 9 in better form for appeal by materially reducing or simplifying the issues for appeal.

In the Advisory Action mailed August 25, 2005, the Examiner suggested that "the wherein statement[s] be rewritten into a positively recited step where the requirement of the tertiary parameter change is made mandatory." In Applicant's response filed Sep. 7, 2005, Applicant incorporated the subject matter of claims 10 and 12 into claim 9 and followed the Examiner's suggestion to positively recite the "wherein" statements in claims 9 and 11. The Examiner prepared an Advisory Action on October 5, 2005, and kindly communicated a copy of the prepared Advisory Action to the Applicant via facsimile. In the prepared Advisory Action, the Examiner stated that amendments to the claims incorporating the Examiner's suggestion to positively recite the "wherein" statements requires further search and consideration of the art. The Examiner did not enter the amendments. Applicant has, therefore, amended claim 9 to incorporate the non-amended language of claims 10 and 12. The amendment places claim 9 in better form for appeal by materially reducing or simplifying the issues for appeal.

In the Advisory Action mailed August 25, 2005, the Examiner interpreted "may" as optional language and construed "may" to read "may or may not." Applicant respectfully disagrees.

"May" is defined as "to be allowed or permitted to". *The American Heritage Dictionary, Second College Ed.*, Houghton Mifflin Company (Boston, 1992), p. 774 (copy enclosed). "May" is not optional language as interpreted by the Examiner and is not read as "may or may not." That is, "may" is not defined as "to be allowed to or not to be allowed to." The Examiner's construing of the term "may" to read "may or may not" construes claim 9 to read, for example, that a change to one of the set of tertiary scan parameters is allowed to or is not allowed to affect another of the set of tertiary scan parameters, but not affect any of the set of secondary scan parameters and any of the set of primary scan parameters. Claim 9 does not set forth that a change to one of the set of tertiary scan parameters is not allowed to affect another of the set of tertiary scan parameters. The Examiner is improperly adding a limitation to the claim not set forth therein.

The Examiner further stated in the Advisory Action mailed August 25, 2005, that "[a]s shown in the previous office action the tertiary parameters [of the prior art] cannot directly be changed and therefore changes to one parameter cannot affect another set of tertiary parameters." Applicant agrees with the Examiner. Since the Examiner concluded that the prior art teaches that

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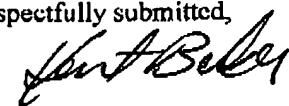
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changes to one parameter cannot affect another set of tertiary parameters, a change to a tertiary parameter of the prior art is not allowed to affect another of the set of tertiary parameters. As stated above, such is contrary to that called for in claim 9.

Since claim 9 allows a change to one tertiary parameter to affect another of the set of tertiary parameters and since the prior art does not allow a change to one tertiary parameter to affect another of the set of tertiary parameters, the prior art fails to teach each and every element of the claim, and claim 9 is not anticipated by the prior art of record. Therefore, Applicant believes that claim 9 and the claims depending therefrom are patentable over the art of record.

Applicant appreciates entry of the above amendment. Any questions regarding this matter can be directed to the undersigned.

Respectfully submitted,



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## maxillary | mea culpa

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maxillary (măk'si-lär'ē) *n., pl. -ies.* A jaw or jawbone.  
 —maxillary *adj.*  
 maxilloped (măk'ĭlō-pĕd') *n. Zool.* One of the three pairs of crustacean appendages located just posterior to the maxillae. [MAXILLA] + -ped.]

maxillo-facial (măk'ĭlō-făsh'äl) *adj.* Pertaining to or involving the maxilla and the face. [MAXILLA] + FASCIAL.]

maxima (măk'simə) *n.* A concise formulation of a fundamental principle or rule of conduct; saying. [ME maxime < OFr. < Med. Lat. *maxima* < Lat. *maximum*, greatest < *magnus*, great.]

maxima (măk'simə) *n.* A plural of maximum.

maximal (măk'simăl) *adj.* 1. Of, pertaining to, or consisting of a maximum. 2. Being the greatest or highest possible. 3. Math. Designating the maximal of an ordered set. —n. Max. An element in an ordered set that is followed by no other. —maximality *adj.*

maximalist (măk'simă-lĭst) *n.* One who advocates direct revolutionary action to secure social and political gains. [Fr. *maximaliste*, prob. *E. maximal*.]

maximize (măk'simiz') *vt.* -maxed, -maxing, -maxes.

1. To increase or make as great as possible: *the ideal of maximizing opportunity through the equalizing of educational opportunity*. (Robert J. Havighurst). 2. To assign the highest possible importance to. 3. Math. To find a maximum value of a function. —maximizer *n.* —maximality *n.*

maximum (măk'siməm) *n., pl. -mums or -mæs (-măz).*

1. a. The greatest possible quantity, degree, or number. b. The time or period during which the highest point of degree is attained. 2. An upper limit stipulated by law or other authority. 3. Astron. a. The moment when a variable star is most brilliant. b. The magnitude of the star at such a moment. 4. Math. a. The value of a function that is not exceeded by neighboring values. b. The greatest value assumed by a function within some subset of its domain of definition. c. The largest number in a set. —adj. 1. Having or being the greatest quantity or the highest degree that has been or can be attained: *maximum temperature*. 2. Of, pertaining to, or making up a maximum; a maximum number in a series. [ < Lat. *maxima* of *maximum*, greatest. —see MAXIM.]

maxixe (măk'shē', -shēz) *n.* A Brazilian dance similar to the two-step. [Port. (Brazil).]

maxwell (măk'wĕl', -wäl) *n.* A unit of magnetic flux in the centimeter-gram-second electromagnetic system, equal to the flux perpendicular to an area of one square centimeter in a region where the magnetic induction is one gauss. [After James Maxwell (1831-1879).]

may (măy) *aux. v.* Past might (măt). present may for singular and plural. 1. To be allowed or permitted to: *May I take a swim?* You may. 2. Used to indicate a certain measure of likelihood or possibility: *It may rain this afternoon.* 3. To be obliged; must: Used in statutes, deeds, and other legal documents. 4. Used to express a desire or fervent wish: *Long may he live!* 5. Used to express contingency, purpose, or result in clauses introduced by *that* or *so that*: expressing ideas so that the average man may understand. —See Usage note at *can*. [ME, to be able < OE *mēg*, 1st and 3rd person singular indicative of *magan*, to be strong, be able.]

May (măy) *n.* 1. The fifth month of the year according to the Gregorian calendar. See table at calendar. 2. The springtime of life; youth. 3. The celebration of May Day. 4. *Chiefly Brit.* The blazons of the heralds. [ME < OFr. *mai* < Lat. *Maius* < *Maija*, an Illyrian goddess.]

maya (măyă) *n.* Hinduism. 1. The origin of the world.

2. The illusory appearance of the world. [Skt. *maya*.]

Maya (măyă) *n., pl. Mayas or -yas.* 1. A member of a race of Indians in southern Mexico and Central America whose civilization reached its height around A.D. 1000. 2. The Mayan language of the Maya. [Sp.] —Maya *adj.*

Mayan (măy'ĕn) *adj.* Of or pertaining to the Maya, their culture, their language or the language group to which it belongs. —n. 1. A Maya. 2. A linguistic stock of Central America that includes Maya and Yucatec.

May apple *n.* 1. A plant, *Podophyllum peltatum*, of eastern North America, having a single, nodding white flower and oval yellow fruit. Although the pulp of the ripe fruit is edible, the roots, leaves, and seeds of this plant are poisonous. 2. The fruit of the May apple.

maybe (măb'ĕt) *adj.* Perhaps; possibly.

May beetle *n.* The June beetle.

may-day (măd'ē) *n.* An international radio-telephone signal word used by aircraft and ships in distress. (Alteration of Fr. *ma'daïs*, help me!)

May Day *n.* 1. The first day of May, marked by the celebration of spring. 2. May 1, regarded in a number of places as an international holiday to celebrate labor organizations.

mayest (măst') or mayest (măst) *aux. v.* *Archaic.* Second person singular present tense of *may*.

may-flower (măfloo'ĕr) *n.* 1. Any of a wide variety of plants that bloom in May. 2. The trailing arbutus.

mayfly (măfli') *n.* Any of various fragile, winged insects of the order Ephemeroptera that develop from aquatic nymphs and live in the adult stage for only a few hours.

may-hap (măh'ăp', măh'ăp') *adv.* Perhaps; perchance. [*< the phrase it may hap.*]

may-ham (măh'äm', mă'äm') *n.* 1. *Law.* The offense of will-

fully maiming or crippling a person. 2. The infliction of violent injury upon a person or thing; wanton destruction: *children committing mayhem in the flower beds.* 3. A state of violent disorder or riotous confusion; havoc. [ME < AN *mayhem* < OFr. *maheiner*, to maim.]

maying (măy'ĕng) *n.* Often Maying. The gathering of spring flowers, esp. during a May festival.

may-o (mă'yo) *n.* Mayonnaise.

mayonnaise (mă'ñ-năz', mă'ñ-năz') *n.* A dressing made of beaten raw egg yolk, butter or olive oil, lemon juice or vinegar, and seasonings. [Fr.]

mayor (mă'or, măr) *n.* The chief magistrate of a city, town, borough, or municipal corporation. [ME *maire* < OFr. < Med. Lat. *maior* < Lat. greater. —see MAJOR.] —mayoral *adj.* —mayorship' *n.*

may-or-ess (mă'ñ-ĕs', măr'ĕs) *n.* 1. A woman serving as the chief magistrate of a city, town, borough, or municipal corporation. 2. The wife of a mayor.

Maypole also may-pole (mă'pôl') *n.* A pole decorated with streamers that May Day celebrants hold while dancing.

maypop (mă'pôp') *n.* 1. A vine, *Fascicularia bicolor*, of the southeastern United States, having purple and white flowers and edible yellow fruit. 2. The fruit of the maypop. {Alteration of *moycock* < Powhatan *mahowqa*.}

may-tree (măt'ē) *n.* Variants of maythorn.

mayweed (mă'wëd') *n.* A widespread weed, *Anthemis cotula*, having rank-smelling leaves and white flowers.

May wine *n.* 1. A still white wine with woodruff flavoring, often containing orange or pineapple slices. 2. A punch of champagne, claret, and Moselle or Rhine wine, flavored with woodruff. [Transl. of G. *Maientrank*.]

may-zee-dum (măz'ē-dōm) *n., pl. -dums (-dōm).* A fruiting body of some lichens in which the spores lie freely in a powdery mass that is enclosed in a peridium. [NL; Gr. *maza*, lump + Lat. *cedes*, house.]

maize-tov (măz'ē-tōv') *n.* May. Variant of maize tow.

Mazdaism also Mazdeanism (măz'dā-ĕz'ĕm) *n.* Zoroastrianism. [*< Avestan mazda*, the good principle.]

maze (măz) *n.* 1. a. An intricate, usually confusing, network of walled or hedged pathways; labyrinth. b. A physical situation in which it is easy to get lost. c. Any of various networks of pathways, some blind and some leading to a goal, used experimentally to investigate learning in animals. 2. A graphic puzzle, the solution of which is an uninterrupted path through an intricate pattern of line segments from a starting point to a goal. 3. Something made up of many confused or conflicting elements; tangle. —*er. v.* mazed, mazing, mazew. 4. *Chiefly Regional.* To stupefy; daze.

2. To bewilder. [ME *mase*, maze, confusion < *mæsen*, to confuse < OE *mæsan*, to confound.] —mazey' *adj.*

maize-tov also maize-tov (măz'ē-tōv') *n.* Hebrew.

Congratulations. [Heb. *mazdāyōf* : *mazā*, luck + *ṭōv*, good.]

maize (măz'ē) *n.* A large drinking bowl or goblet made of hard wood or metal. [ME < OFr. *mazze*, of Germanic orig.]

maizurka (măz'ōr'kă, zăbōr') *n.* Variant of mazurka.

maiz'ume (măz'ōō'mă) *n.* Slang. Money, cash. [Yiddish *mazur* < Heb. *mazun*, fixed.]

mazurka also maizurka (măz'ōr'kă, zăbōr') *n.* 1. A lively Polish dance resembling the polka, frequently adopted as a ballet form. 2. A piece of music for a mazurka, written in 3/4 or 3/8 time with the second beat heavily accented. [Pol., *accusative of mazurk*, dim. of *mazur*, someone from Mazovia, a province of Poland.]

mazzard (măz'ărd) *n.* A wild sweet cherry, *Prunus avium*, often used as grafting stock. [Orig. unknown.]

mbira (măb'ĕră, măb'ĕră) *n.* A thumb piano. [Of Bantu orig.]

MC (mĕk'ĕ) *n.* A master of ceremonies.

McCarthyism (măk'ăr-thē-ĕz'ĕm) *n.* 1. The political practice of publicizing accusations of disloyalty or subversion with insufficient regard to evidence. 2. The use of methods of investigation and accusation regarded as unfair, in order to suppress opposition. [After Joseph R. McCarthy, (1908-1957). —McCarthyism]

McCoy (măk'ōi) *n.* Slang. The authentic thing or quality; something that is not an imitation or substitute: *the real McCoy.* [After Kid McCoy (Norman Selby, 1873-1940), American boxer.]

McIn-tosh (măk'ăn-tōsh') *n.* A variety of red eating apple, grown commercially in the northern United States. (After John McIntosh (b. 1796), its first cultivator.)

McThe *n.* The symbol for the element mendelevium.

Mc-day (măd'ē) *n.* Mobilization day; the day on which national mobilization for war is ordered.

me (mĕ) *pron.* The objective case of the first person pronoun.

Used: 1. As the direct object of a verb: *He assisted me.*

2. As the indirect object of a verb: *They offered me a ride.*

3. As the object of a preposition: *This letter is addressed to me.* —See Usage notes at *me* and *me*. [ME < OE *me*.]

mea culpa (mă'kălpă) *n.* An acknowledgment of a personal error or fault. [Lat., through my fault.]

8 pa / 8 pay / 8 care / 8 father / 8 bib / 8 church / 8 dead / 8 per / 8 be / 8 life / 8 gag / 8 bat / 8 which / 8 pit / 8 pie / 8 pier / 8 judge / 8 kick / 8 lid, needle / 8 equa / 8 no, sudden / 8 thing / 8 pot / 8 toe / 8 paw, fur / 8 noise / 8 out / 8 book / 8 boot /